

MINUTES

ALCOHOL AND TOBACCO COMMISSION

SEPTEMBER 21, 2010

CALL TO ORDER/NOTING OF QUORUM

Chairman Snow called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Sturtz and Commissioner Guthrie. Superintendent Huskey, Major Poindexter and Executive Secretary Dunsmore were also in attendance.

Marc Carmichael, Phil Terry, John Baker, Bart Herriman, Jeff McKean, Mark Webb, Debbie Rolfsen, Jim Purucker and John Barnett were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the September 7, 2010 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the September 21, 2010 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

RR40-22719 DELYNNE & HOLLY, INC. - Hearing Judge Dunsmore stated this permittee was cited for furnishing alcohol beverage to a minor and allowing a minor to loiter. The Prosecutor made an offer to the permittee to settle this matter; however, an agreement could not be reached, so an appeal hearing was held. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation to find the permittee guilty of the offenses and charge a fine of \$500.00. Commissioner Guthrie seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, or applications for changes in location or ownership or both of existing permits, which have been

recommended by local boards and reviewed by at least two Commissioners. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for catering. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Vice Chairman Johnson seconded. The motion was unanimously approved.

Five hundred (500) renewals approved, fifty-three (53) new and/or transfer permits approved, thirteen (13) permits approved for catering, two (2) permits approved for first year escrow, one (1) permit approved for second year escrow and two (2) permits approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Commissioner Sturtz seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR02-02625 ZURZOLO, INC., D/B/A NEW YORK NEW YORK – Commissioner Guthrie noted this is a type 210 transfer of ownership and location with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the transfers. Commissioner Sturtz seconded. The motion was unanimously approved.

RR02-02249 B & C BAUGHMAN CORPORATION, D/B/A SPORTS & SPIRITS BAR & GRILL – Commissioner Guthrie noted this is a type 210 transfer of ownership with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the transfer. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR02-00663 JSZ INVESTMENTS, LLC, D/B/A TOADS TAVERN – Commissioner Guthrie noted this is a type 210 transfer of ownership with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie moved to table this matter until October 5th, so he can contact Excise regarding his recommendation to deny this transfer. Commissioner Sturtz seconded. The motion was unanimously approved.

RR45-00585 COPPER ENTERTAINMENT, INC., D/B/A COPPER PENNY PUB – Commissioner Guthrie noted this is a type 210 renewal with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the renewal. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL45-03387 CASK N CELLAR, INC. – Commissioner Guthrie noted this is a type 217 transfer of location with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the transfer. Commissioner Sturtz seconded. The motion was unanimously approved.

DL49-24031 MAC'S CONVENIENCE STORES, LLC, D/B/A CIRCLE K #2277 – Commissioner Guthrie noted this is a new type 115 with the local board voting two (2) to two (2).

Commissioner Guthrie stated petitions were presented on both sides. However, it appears no evidence was submitted showing this applicant does not legally qualify to hold this permit and the Excise officer sitting on the board voted to approve.

Commissioner Guthrie moved to approve the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

RR29-27153 RB & MAS LP, D/B/A DOUBLE APPLE LOUNGE – Commissioner Guthrie noted this is a new type 209 with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie stated he wants to speak with Excise regarding this matter before voting.

Commissioner Guthrie moved to table this matter until October 5th. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL49-23916 MAC'S CONVENIENCE STORES, LLC – Commissioner Guthrie noted this is a new type 116 with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

RR73-27104 & 27105 BRIAN J. SMITH, D/B/A PARTS PUB GRILL – Commissioner Guthrie noted this is a new type 103 and 210-1 with the local board voting three (3) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the new permits. Commissioner Sturtz seconded. The motion was unanimously approved.

INACTIVE FILES

INACTIVE FILES- Vice Chairman Johnson moved to make thirty-six (36) permits inactive. Twenty (20) permits are not subject to auction and sixteen (16) permits are subject to auction. Commissioner Guthrie seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

OPS INVESTIGATION 0155-001 – Hearing Judge Dunsmore stated he submitted his Findings of Fact and Conclusions of Law, in the above-referenced matter, for their consideration.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation. Commissioner Guthrie seconded. The motion was unanimously approved.

NON-ALCOHOLIC COMMODITIES – Chairman Snow stated this matter is regarding violations against W 29-19783, W 49-21602, W 49-23622, W 49-09022 and W 49-09133. Both sides submitted Proposed Findings of Fact and Conclusions of Law for consideration by the Commission.

Executive Secretary Dunsmore informed the Commission that the process at this point would be voting to approve the Proposed Findings of Fact and Conclusions of Law submitted by the permittees, the Prosecutor, or themselves. After the vote, there is a 15 day response period for either side to file objections. After the 15 period, the Commission would take final action regarding this matter. The Executive Secretary stated he had an email from the Prosecutor that would waive one day of the 15 day response time, so the Commission could take final action at the October 5th meeting. Bart Herriman, counsel for the permittees, also waived the one day.

Commissioner Guthrie moved to approve the Findings of Fact and Conclusions of Law submitted by the permittees. Vice Chairman Johnson seconded. The Chairman also approved the motion and Commissioner Sturtz abstained from voting, because he was not present at the hearing. The motion was approved.

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

Approved this _____ day of _____, 2010.

P. TOM SNOW, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER